As we have proven in the last couple of months on a number of bills, and the Senator has pointed this out, if we can get the bill to the floor for the managers to be able to work with our colleagues on amendments, we can legislate. The problem has been that we have not been able to get bills to the floor because of this blockage, the blockage caused by the overuse of the filibuster and, more accurately, the threat of a filibuster on the motion to proceed, which, in turn—and my Republican friends believe this very keenly—was caused by the use of filling the tree, which meant that they would not have the opportunity to offer amendments. So they would then use that threat of a filibuster in order to try to gain assurance that they would be able to offer some amendments.

That is the heart of the compromise we proposed. There are a lot of other aspects to it, including trying to get rid of these filibusters on going to conference; including these filibusters that tied up nominations with postcloture 30-hours, nominations that were going to pass with votes of 90 to 0.

There are a lot of other parts to the recommendations and what the leaders are recommending to us, but the key thing—and Senator REID said it to us repeatedly—the key thing that this compromise addresses, and it is a bipartisan approach, is trying to overcome that barrier to getting legislation to the floor. We know—the Senator from Maryland has pointed out and Senator MCCAIN knows it because we have lived it—if you can get a bill to the floor with managers, they can work out amendments, sometimes by the hundreds.

I think Senator MCCAIN and I probably had over 100 amendments filed to our bill.

Mr. MCCAIN. I think it was about 383.

Mr. LEVIN. OK. I am glad I exaggerated in the downward direction. In any event, we were able not to work through all of them but to deal with that challenge, to probably deal with about 100 of them, as I remember. We did it in about 3 days.

That doesn't mean we are magicians. It means we are capable, all of us are capable, if we can get the bill to the floor. Particularly when the bill has come out of committee with broad bipartisan support, we can get bills passed here. So the heart of what we have proposed to the leadership, this group of 8, and what they have adopted and incorporated in their bipartisan approach to the Senate and to the country, is exactly what Senator CARDIN has talked about: getting bills to the floor. We can then watch the momentum work.

I want to add one other thing. Senator MCCAIN just made reference to it. That has to do with the so-called nuclear option, or the constitutional option, depending on what your view of it is. I have always believed the threat of that option was troublesome. I was troubled by it because it is inconsistent with the rules of the Senate which require a two-thirds vote for amendments to the rules and because we are a continuing body, not just by our rules but by even a Supreme Court opinion which so ruled.

I believe if the constitutional or the nuclear option were utilized here, if we ended up with the utilization of that option, that what we now have, which is gridlock, would have resulted instead in a meltdown. I want to remind my Democratic friends and folks around the country that not too many years ago when the Republicans threatened to use a constitutional option, the reaction on this side of the aisle was intense. The words of Senator Kennedy, Senator BIDEN, Senator Byrd resonated through this Chamber in strong opposition to the use of a nuclear option.

I have just a few examples of what our reaction was on this side of the aisle when there was a threat to use the nuclear option when it was threatened relative to judges. What I am not going to do tonight is go through the history of the constitutional or the nuclear option, what happened over the century when it has been threatened, how it has not been adopted by the Senate. It is a long, detailed history.

I know some of my colleagues have argued that the constitutional option is based on the Constitution. It is very much the opposite in terms of the history of this Chamber and the rejection of any idea that the Constitution somehow requires that at the beginning of a session of a Senate that rules can be amended by majority vote. It is a long history.

I want to just quote, if I can find these quotes, what the reaction was on this side of the aisle when there was a threat on the Republican side of the aisle to use this approach of getting a ruling from the Chair, somehow, that the rules, although they say they can only be amended by two-thirds, can in fact be amended by a majority.

EXTENSION OF MORNING BUSINESS

Mr. LEVIN. Mr. President, while I am looking for these quotes, let me ask unanimous consent the period for morning business be extended until 7 p.m. today and that all provisions of the previous order remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

I wish to quote Senator Byrd as to what he said when the actual issue was before the Senate. He said:

Now, if we go down this road—

That is the road which says rules can be adopted by a majority vote, even though the rules say it takes 67 votes. He said:

Now, if we go down this road, I can guarantee that every Senator in this body will rue this day . . . Senators, do we want to do it this way? If this is done today, it can be done any day. If it can be done on the constitutional question, it can be done on any other constitutional question. It can be done on any other point of order which the Chair wishes for the Senate for decision . . . I believe that there is a danger here that, if Senators will reflect upon it for but a little while, they could foresee a time when they say that we went the wrong way to achieve an otherwise notable purpose . . . Put this power in the hands of a tyrannical leadership, and a tyrannical majority of 51 Senators, and we are going to be sorry on both sides of the aisle.

This is what Senator Inouye said in his maiden speech in this Chamber. They were discussing civil rights legislation. The question was whether there would be a ruling of the Chair which would allow the rules to be changed by the majority vote. This is a Senator who had been discriminated against in probably one of the most dramatic and massive ways that anyone could be discriminated against, being denied freedom because of his Japanese-American ancestry while he was fighting to defend this country.

What he said in his maiden speech was the Senate needs to preserve its protections for minority views, even though those protections allowed a misguided minority to obstruct our Nation's progress.

He supported the civil rights legislation, but he would not allow it to be addressed in violation of the rights of the minority of this body. This is what Danny Inouye said in his maiden speech:

The philosophy of the Constitution and the Bill of Rights is not simply to grant the majority the power to rule, but it is also to set out limitation after limitation upon that power. Freedom of speech, freedom of the press, freedom of religion: What are these but the recognition that at times when the majority of men would willingly destroy him, a dissenting man may have no friend but the law? This power given to the minority is the most sophisticated and the most vital power bestowed by our Constitution.

He was not willing to end a grave injustice, which is what civil rights legislation would have achieved, by a method that he felt ran roughshod over the rights of the minority. He warned us against the attempts, in his words, ''to destroy the power of the minority . . . in the name of another minority.''

Mike Mansfield, leader of the Senate, supported a modification in the rule to reduce the number of Senators needed to end debate from 67 to 60. Although he supported the change in the rules, he opposed the use of the nuclear option, or the constitutional option, to achieve it.

This is what Mike Mansfield said in arguing for the reform:

[The] urgency or even wisdom of adopting the three-fifths resolution does not justify a path of destruction to the Senate as an institution and its vital importance to our scheme of government. And this, in my opinion, is what the present motion to invoke cloture by simple majority would do.

He added:

I simply feel the protection of the minority transcends any rule change however desirable. . . . The issue of limiting debate in this body is one of such monumental importance

that it reaches, in my opinion, to the very essence of the Senate as an institution. I believe it compels a decision by more than a majority.

Senator Kennedy's words were extremely powerful in this regard. I quoted some of Senator Byrd's words and Senator BIDEN's words vehemently opposing the effort to change the rules of this body by majority vote when the rules themselves provide it takes two-thirds of the vote to amend the rules.

We have to be consistent. The rules cannot just be simply what the majority wants them to be, whatever the current majority is. This is a body that has continuity. It is one of the few bodies in this country that has continuity. The only other one is the Supreme Court.

Two-thirds of us were not elected last November. Two-thirds of us continued from the last Senate. Over the centuries, this body has been looked to as a source of continuity, where the rules cannot be changed at the will or whim of a majority but where the rules stay in place until amended. The rules don't end when a Congress ends, in terms of Senate rules. House rules do because all the House Members are elected every 2 years. Senate rules are permanent until amended or changed. It is critically important that we not say those rules can be modified whenever the majority wishes to modify those rules or else we will lose not just the protection of the minority, which is so critically important to the history and purpose of the Senate, but it is critically important to the very continuity and stability of the Senate.

This is a unique position, where most of us—two-thirds of us—stay from Congress to Congress to Congress. It is not always the same two-thirds, but it is always two-thirds. That has created an institution which is unique in protecting minority rights as well as holding out to the American public that continuity. In the last few years, we have fallen terribly short of what we should be. There are many reasons for that, and I will not go into all of them or even any of them right at the moment. We have fallen terribly short. We have not carried out our duties for lots of reasons; again, most of which, frankly, are not acceptable to me.

We talk about how the filibuster has been abused—and it has been. In part, it has been abused because we, in the majority, have allowed it to be abused. We have not made the filibusterers filibuster. As Senator Byrd put it, it is just the whiff of a threat of a filibuster which has tied up the Senate. It doesn't have to be that way, and it should not be that way.

I see Senator ALEXANDER is here. He is such an important part of this group of eight.

What has happened is that eight of us came together with a very specific purpose. There were four Democrats and four Republicans. I have mentioned everybody who was in that group already. We came together to try and see if we could get through this thicket, where we have this threat of a filibuster on the motion to proceed which takes weeks to dispose of. What that means is it has been a huge problem in terms of getting things done.

Eight of us got together and said: Let's just reason together and see if we cannot get rid of the roadblock and the abuse of the threat of a filibuster but protect the rights of the minority at the same time to offer amendments. As I said before, it was that which drove many Republicans to use that threat because of the fear the tree would be filled and there would be no opportunity to offer amendments. Unless there was some assurance that there could be amendments offered, they then stood their ground and said: We are not going to proceed to that bill unless there is some assurance in terms of amendments. It is that balance that we struck, and that is where the two amendments on each side came from and where some of the suggestions we made to the majority came from.

I wish to thank Senator ALEXANDER and all the other Members. I am going to repeat the names of this group who spent so many hours together to try and come together not just to solve the problem of getting through this thicket, but also to help restore a climate in the Senate which might help us be more fruitful in our work.

Again, I wish to thank Senators MCCAIN, SCHUMER, KYL, KIRK, ALEXANDER, PRYOR, and BARRASSO for all the work they put in on this bipartisan proposal to reform Senate procedures.

I ask unanimous consent that the bipartisan proposal we made to the leadership—and which they have embraced in large measure in their own extraordinarily important effort to offer the Senate and the Nation a bipartisan approach of getting through this rules morass—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIPARTISAN PROPOSAL TO REFORM SENATE PROCEDURES

We propose the Senate adopt a Standing Order at the beginning of the next Congress, which would provide two additional alternatives to the existing rules for the Majority Leader to proceed to the consideration of a measure on the Senate Calendar. It also streamlines procedures relative to going to conference and consideration of nominations. The two additional methods for the Majority Leader to proceed, at his option, would sunset at the end of the 113th Congress. The current rule relative to proceeding to a bill would remain an option. We also propose a number of recommendations relative to current practices and comity including that the Leaders inform their conferences that existing rules which require Senators to come to the floor to debate or object to a matter will be enforced.

HIGHLIGHTS

Two Additional Methods for the Majority Leader to Proceed, at his option

(1) No filibuster of the motion to proceed (debate on the motion would be limited to 4 hours, equally divided.) The amendment tree could not be filled at the time the Senate proceeds to the consideration of such bills where this option is used. The process by which this option would be implemented is in attachment A. It includes a guaranteed amendment at the beginning of the bill's consideration for each of the following in the order indicated: the Minority Manager, the Majority Manager, the Minority Leader and the Majority Leader. (Those amendments would not be subject to amendment or division.)

(2) When a cloture motion is filed that is signed by both the Majority Leader and the Minority Leader on a motion to proceed, and where the cloture motion is signed by at least five additional Senators from each caucus, the motion ripens after two hours of debate, equally divided and, if cloture is invoked by three-fifths affirmative vote, there will be no post-cloture debate.

Going to Conference

(3) All three initial motions relative to going to conference (insist, request, appoint) would be collapsed into one nondivisible motion. Cloture on such a motion would ripen after up to two hours of debate, equally divided, with no post-cloture debate if cloture is invoked.

Nominations

(4) The list of nominees subject to the current expedited process of putting nominations directly on the Calendar (S. Res. 116, 1126 Congress) unless a nomination is objected to by any Senator would be expanded by 531 nominations leaving 448 nominations to go through the traditional committee review process. Committee Chairs and Ranking Members would be able to strike nominations from the list of 531 before the Standing Order is put to a vote.

(5) A cloture motion on nominations would ripen after up to two hours of debate, equally divided, with no post-cloture debate if cloture is invoked. This change would not apply to Cabinet Officers, Cabinet-level Officers, or Article III judges. However, relative to district court nominations, post-cloture consideration would be limited to 2 hours.

CURRENT PRACTICES AND COMITY

In addition to the adoption of the Standing Order, the leaders, at their respective conference meetings, should address changing some practices to make the Senate operate more efficiently. They should notify their members about the following:

Leaders and bill managers should not honor requests to object or threats to filibuster on behalf of another Senator unless, after reasonable notice, that Senator comes to the floor and exercises his or her rights himself or herself. This also applies to all objections to unanimous consent requests. Members should be required to come to the floor and participate in the legislative process—to voice objections, engage in debate, or offer amendments.

When the two cloakrooms send out hotlines agreed to by the two leaders, any Senator may object, but the Senator should lose his or her objection if, after appropriate notice, the Senator fails to object to the request on the floor the next session day.

Rule XXII makes provision for 30 hours of debate after cloture is invoked. Within the 30 hours, Senators have strict limitations on the amount of time each Senator is allowed to speak. These limits should be enforced by the leaders and bill managers. Rule XXII further says, ''After no more than thirty hours of debate . . .'', so 30 hours will be considered the outside limit of post-cloture debate time.

When the Majority Leader or bill manager has reasonably alerted the body of the intention to do so and the Senate is not in a quorum call and there is no order of the Senate to the contrary, the Presiding Officer

may ask if there is further debate, and if no Senator seeks recognition, the Presiding Officer may put the question to a vote. This is consistent with precedent of the Senate and with Riddick's Senate Procedure, 1992. (See p. 716; see also footnotes 385 and 386 on p. 764) This can be done pre-cloture or post-cloture on any amendment, bill, resolution or nomination.

ATTACHMENT A

(1) The first amendments in order to any measure shall be one amendment for each of the two Leaders and two Managers. Such amendments shall be offered in the following order: Minority Manager, Majority Manager, Minority Leader, Majority Leader. If an amendment is not offered in its designated order, the right to offer the amendment is forfeited.

(2) Each paragraph 1 amendment must be disposed of before the next amendment may be offered.

(3) Paragraph 1 amendments are not subject to amendment or division.

(4) Each paragraph 1 amendment, if adopted, would be considered original text for purpose of further amendment.

(5) No points of order would be waived by virtue of this procedure.

(6) No motion to recommit shall be in order during the pendency of any amendment offered pursuant to paragraph 1.

(7) Notwithstanding Rule XXII, if cloture is invoked before all paragraph 1 amendments are disposed of, any amendment in order under paragraph 1 but not considered upon the expiration of post-cloture time may be offered and is guaranteed up to 1 hour of debate, equally divided.

Mr. LEVIN. Our proposal was born out of the sincere belief that, even in today's hyper-partisan environment, it is still possible for Senators from both parties to work together to restore the deliberative traditions for which the Senate was once known. It took many days of discussions over two months among our group to reach an agreement we could present to our Leaders. We looked past our frustrations with the recent practices of the Senate and acted together for the sake of this vital institution. I would also like to thank our former and current Parliamentarians, Alan Frumin and Elizabeth MacDonough, who answered our questions and provided their expert advice throughout our discussions.

Perhaps the most significant reform in the bipartisan leadership proposal, as in our bipartisan proposal to the leadership, is a reform designed to end the abuse of the threat of a filibuster on the motion to proceed to a bill—that is, the abuse of the Senate's minority protections to obstruct the Senate from even taking up and debating legislation. Reform in this area is vital, because abuse of the rules on the motion to proceed has prevented the Senate from engaging in what our rules are supposed to promote: Debate of the important issues our nation must face. Over the previous two Congresses, we have had to hold 59 cloture votes on motions to proceed, and the very threat of the filibuster on the motion to proceed has on countless occasions derailed the Senate's legislative process. Reforming the procedures regarding the motion to proceed will allow this body to deliberate as it is intended to do.

The proposal before us will give the majority leader two alternatives to the method in the existing rules for proceeding to a bill. The first alternative, in the form of a standing order effective for the 113th Congress, would limit debate on the motion to proceed to 4 hours. When used by the majority leader, this alternative would guarantee consideration of some minority amendments. Specifically, two amendments each for both the majority and the minority would be the first amendments in order at the beginning of consideration of a measure. The order of those amendments would be the first minority amendment, the first majority amendment, the second minority amendment, and the second majority amendment. Each amendment would need to be disposed of prior to the offering of the next amendment in order. These amendments would not be subject to amendment or division, and if adopted, the amendments would be considered original text for purpose of further amendment. They could be tabled or filibustered. If an amendment is not offered in its designated order, the right to offer that amendment would be forfeited. Filing deadlines would occur on these amendments if a cloture motion is filed. If cloture is invoked, any of these amendments not offered prior to the expiration of post-cloture time could be offered and would be guaranteed up to 1 hour of debate.

The second alternative would allow the Senate to move quickly when both the majority and minority leaders agree we should proceed to a matter. Specifically, where eight Senators from each side, including the two Leaders, sign a cloture petition on the motion to proceed to a measure, then the cloture vote would occur the day following the filing of the motion with no post-cloture debate if cloture is invoked.

The bipartisan proposal before us would also reform the process of going to conference by collapsing the three motions currently required by the rules to be adopted in order to go to conference into a single motion and shrinking the cloture process on that conference motion from 30 to 2 hours. This change would be in the form of an amendment to the Standing Rules, and was part of our bipartisan group's recommendations to the leaders.

In addition, the proposal before us would reform the consideration of nominations. First, for district court nominations, it would reduce post-cloture time from 30 to 2 hours, as recommended by our bipartisan group of eight. Second, it would shrink the cloture process on subcabinet nominations by reducing post-cloture time from 30 to 8 hours. This change would be in the form of a standing order and would be effective for the 113th Congress.

When a few Senators threaten to filibuster or object to proposed unanimous consent agreements, those Senators should have to come to the floor to speak or object. Our bipartisan group's reform proposal urged the leaders to give notice that the existing rules of the Senate will be used more vigorously to force filibusterers to show up on the Senate floor to speak, and their colloquy on this matter reflects the leaders' intention to do so.

This proposal includes reasonable protections for the minority, and it reforms our procedures in ways that can end the gridlock that bedevils us. And as it accomplishes those important reforms, this proposal allows the Senate to avoid a process that would break the rules of the Senate and do untold damage to this institution. Amending our procedures in this way, without use of the nuclear option, avoids having the Senate go from gridlock to meltdown. I want to spend some time discussing this process because the issue is extremely important and not fully understood.

The greatest difference between the Senate and the House of Representatives is the approach to minority rights. Senate rules protect the rights of the minority and the House rules do not. With those rights, a minority or even a single Senator can influence the legislative process. Without those rights, a simple majority can render a minority irrelevant and powerless to influence the legislative process.

The current Standing Rules of the Senate spell out clearly the process by which the rules of the Senate may be amended. Rule 5 states that the rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules. Rule 22 states that an affirmative vote by two-thirds of the Senators present and voting is required to end debate on a proposal to amend the rules.

Some Senators have argued that the Constitution empowers a simple majority of Senators to force a change in the rules at the beginning of a Congress, although the change would occur in violation of rule 5 and rule 22. Supporters of this position refer to this procedure as the ''constitutional option.'' Others, including many of us who have served here for longer periods of time in both the majority and in the minority, refer to it as the ''nuclear option'' because we can see the damage this procedure would do to the Senate. Indeed, many of us who are deeply concerned about its use vehemently opposed Republican threats to use this procedure in 2005.

How worried were we in 2005? Senator Kennedy was worried enough to tell his colleagues: ''By the time all pretense of comity, all sense of mutual respect and fairness, all of the normal courtesies that allow the Senate to proceed expeditiously on any business at all will have been destroyed by the preemptive Republican nuclear strike on the Senate floor . . . They will have broken the Senate compact of comity, and will

have launched a preemptive nuclear war.''

And here's what Senator BIDEN said on this floor: ''I say to my friends on the Republican side: You may own the field right now, but you won't own it forever. I pray God when the Democrats take back control, we don't make the kind of naked power grab you are doing.''

Why were our esteemed former colleagues so concerned about walking this path? Here are some of the dangers inherent in the ''constitutional'' or ''nuclear'' option, and some explanation of why and how the Senate has consistently rejected this approach in the past.

Supporters of the nuclear option claim a simple majority of Senators can force a rules change at the beginning of a Congress, but do not argue that they can do so at other times. There is no basis for the argument that the beginning of a Congress enjoys a special status for rules adoption or amendment that the remainder of a term of Congress does not. If the Constitution grants a simple majority of Senators the right to amend the rules of the Senate at the beginning of a Congress, when and how does that majority lose that right? This temporal distinction cannot be found anywhere in the Constitution. Article I, section 5 of the Constitution says that each House may determine the rules of its proceedings. It makes no distinction as to when.

That provision of the Constitution, which governs the Senate, also governs the House. The House adopts its rules at the opening of every Congress, but it can and does amend its rules in the middle of a Congress. If the Constitution grants a simple majority of Senators the power to adopt rules, what would stop that simple majority from amending those rules in the middle of a Congress, just as our House colleagues do? And if that is the case, the Senate would no longer be able to fulfill its historic distinction of protecting the rights of the minority.

Some supporters of the constitutional or nuclear option claim that rule 22's supermajority threshold to end debate on a proposed rules change is unconstitutional because it inhibits the Senate from exercising its constitutional power to determine its rules under article I, section 5.

But the power to set its own rules is just one of the many powers granted the Senate by the Constitution. For instance, the Senate is empowered to provide advice and consent on nominations and to consider legislation to collect taxes, to pay the nation's debts, to provide for the common defense and general welfare of the United States. Yet, filibusters have delayed or prevented the Senate from acting on those important measures and nominations that fall within the Senate's constitutional duties.

In testimony before the Senate Rules Committee, CRS expert Stanley Bach argued:

> Adopting and amending its own rules is not the only thing, and arguably not the most important thing, that the Constitution empowers and expects the Senate to do. If filibusters are unconstitutional because they impede the Senate in its efforts to exercise its authority under section 5 of Article I to adopt or amend its rules, then why are filibusters constitutional when they impede the Senate's efforts to exercise its equally or more important authority under Article I, especially section 8, to legislate on matters committed to it and the House of Representatives?

In other words, if the filibuster of a rules change is unconstitutional, as nuclear option advocates contend, then a filibuster on any matter would also be unconstitutional because it would delay or prevent the Senate from discharging its constitutional duties. So by declaring the filibuster unconstitutional on a rules change, advocates of the nuclear option are thereby swinging the door wide open to eliminate the filibuster altogether from the Senate.

Some supporters of the nuclear option say that the Founders never intended for the Senate to have filibusters. They claim that the original Senate's rules included a motion for the previous question, which they further claim was used to end debate and bring a matter to an immediate vote. So, they argue, the early Senate supported the ability to close debate and bring a matter to immediate vote by simple majority vote.

The problem is that they have their history wrong. The early form of the motion for the previous question is unlike its modern day version. In the first Congress, both Chambers had a motion for the previous question in their rules—the Senate dropped the motion from its rules in 1806. But the early version of the motion was not used to bring a question to an immediate vote. The motion, which was phrased ''shall the question be now put,'' was used to suppress or postpone a question. It was moved by Senators who would then vote against the motion in order to suppress or postpone the pending question.

The modern day version of the motion for the previous question in the House serves as a simple majority cloture device. However, in the early House, just as in the Senate, if the motion for the previous question was decided in the negative, then the question was suppressed and the House moved on to other business; if the motion was decided in the affirmative, then the House would continue debate on the pending question, not immediately proceed to a vote. That practice continued until 1811, when a new precedent was set that the motion, when agreed to, would immediately end debate and bring a vote on the question. That was the origin of simple majority cloture in the House.

The early history of the motion for the previous question is set forth in the House of Representatives official guide to procedure, House Practice: A Guide to the Rules, Precedents and Procedures of the House:

> In early Congresses, the previous question was used in the House for an entirely different purpose than it is today, having been modeled on the English parliamentary practice. As early as 1604, the previous question had been used in the Parliament to suppress a question that the majority deemed undesirable for further discussion or action. The Continental Congress adopted this device in 1778, but there was no intention of using it as a means of closing debate in order to bring the pending question to a vote. Early interpretations of the rule in the House were consistent with its usage in the Continental Congress. (House Practice, page 690)

Just as in the House, the early Senate rules had a motion for the previous question, which, just as in the House, was used only to end debate and move to another matter, not put a question to an immediate vote. This motion was eventually dropped from the Senate rules. In his speech to the Senate on March 2, 1805, Vice President Aaron Burr recommended changes to the rules of the Senate. Among those, he suggested that the Senate drop the motion for the previous question on the basis that it was duplicative to the motion for indefinite postponement. The diary of John Quincy Adams contains the following account of Burr's speech:

> He [Burr] mentioned one or two of the rules which appeared to him to need a revisal, and recommended the abolition of that respecting the previous question, which he said had in the four years been only once taken, and that upon an amendment. That was proof that it could not be necessary, and all its purposes were certainly much better answered by the question of indefinite postponement. (Memoirs of John Quincy Adams, edited by Charles Francis Adams, vol. I, p. 365)

Supporters of the nuclear option often reference advisory opinions and rulings by Vice Presidents Nixon, Humphrey, and Rockefeller that the Senate may adopt its rules by simple majority vote at the opening of Congress. These advisory rulings and opinions were rendered during actual attempts to change the rules, but the proposed changes were rejected, for good reason.

For example, Vice President Nixon believed the constitution granted a simple majority of Senators the power to force a rules change in violation of Senate rules. In 1957, when an attempt to change the rules was made at the beginning of a new Congress, Nixon made reference to his belief, but his advisory opinion recognized no special status for the beginning of a Congress. Nixon believed a simple majority of Senators could amend the rules at any point during a Congress. In his advisory opinion, Nixon said, ''The Constitution also provides that 'each House may determine the rules of its proceedings.' This constitutional right is lodged in the membership of the Senate and it may be exercised by a majority of the Senate at any time.'' Vice President Nixon also acknowledged that his opinion was merely advisory, and not binding upon the Senate.

Vice President Humphrey advised the Senate in 1969 that if a simple majority of Senators, but fewer than the two-

thirds required by the rules, voted to invoke cloture on a proposed rules change, then he would rule that cloture had been invoked. On January 16, 1969, the Senate voted 51–47 in favor of a motion to invoke cloture. Vice President Humphrey ruled that cloture had been invoked by the majority. Humphrey's decision was appealed and the Senate reversed Humphrey's decision by a vote of 53–45. In doing so, the Senate established a clear precedent rejecting Vice President Humphrey's ruling that a simple majority could end debate.

Supporters of the constitutional argument point to statements by Vice Presidents Humphrey and Rockefeller in 1967 and 1975, respectively. In both these instances, the Vice Presidents advised the Senate that tabling a point of order against a motion to end debate by simple majority would validate the motion to end debate and cause it to self-execute. It is my understanding that both former and current Senate Parliamentarians disagree with the advisory opinions of Humphrey and Rockefeller. Tabling a point of order lodged against a motion to end debate by simple majority does not validate that motion or cause it to self-execute. In tabling the point of order, the question simply recurs on the underlying motion, and that question is debatable. At the end of my remarks I intend to propound several parliamentary inquiries that, I believe, will address the errors of the Humphrey and Rockefeller rulings.

Let's examine more closely these two advisory rulings.

In 1967, it was Senator McGovern who offered a motion to end debate by a simple majority on the question of proceeding to a rules change. Senator Dirksen raised a point of order that the motion was out of order because it violated the rules of the Senate. Vice President Humphrey advised the Senate that if the Senate tabled the Dirksen point of order, that act would serve to validate the constitutionality of the McGovern motion. But in any event, the Senate rejected the motion to table the Dirksen point of order by a vote of 37–61. Then the Senate sustained Dirksen's point of order by a vote of 59–37. This is yet another example of the Senate establishing a clear precedent rejecting simple majority cloture of debate on a rules change.

Then, again, in 1975, the Senate faced a very similar question. Senator Mondale offered a motion that would end debate with a simple majority. Majority Leader Mansfield raised a point of order against the motion. Vice President Rockefeller advised that if the Senate tabled the Mansfield point of order, he would interpret that act as an expression of the Senate that the motion was proper—again, as I will show in a moment, a dubious position. After considerable intervening action and debate, the Senate ultimately sustained the Mansfield point of order by a vote of 53–43. Once again, the Senate established a clear precedent of its rejection of simple majority cloture of debate on a rules change.

The danger of the advisory rulings by Humphrey and Rockefeller in 1967 and 1975 is made clear in a grave warning issued by our former colleague, Senator Robert C. Byrd of West Virginia, the longest serving Senator in the history of the Senate and the author of its definitive history. During the debate in 1975 on the question of whether a simple majority could end debate on a proposed rules change, Senator Byrd gave the following remarks that I believe we should heed carefully today.

May I say to those of us on our side that the day may come—although I hope it will not be in my time—when we will be in the minority, and it will take only 51 Senators from the other side of the aisle to stop debate immediately, without one word, on some matter which we may consider vital to our States or to the Nation. Let me show the Senate how this would work. ...

Suppose it were the Bay of Tonkin resolution, which involved a declaration of war by the Congress of the United States. Any Senator could contrive his own—and I do not use that word disrespectfully—any Senator could write a similarly phrased divisible motion, a multiple motion, sent it to the Chair and all someone would have to do is raise a point of order, another Senator would move to table the point of order; if the point of order were tabled, the matter, without debate, would immediately be put to a vote. If a majority were to sustain that vote, debate would be closed on the basic motion to move to consideration of the matter, or if the matter were already before the Senate, to proceed to vote immediately on the matter without further debate.

Senator Byrd that same day said:

I must say that I have to disagree respectfully with the Chair. We are today operating by the rules of the Senate, which rules and precedents provide that a motion before the Senate, against which a point of order has been made and tabled, remains before the Senate and is debatable. I cannot for the life of me understand how, in this instance, the motion, if the point of order is tabled, will not still be before the Senate and will not be debatable. I cannot understand that. I cannot understand how the Chair can logically state that the Senate, by this motion, and by virtue of its tabling a point of order, which is a separate matter, ipso facto shuts off debate on the motion.

Now, if we go down this road, I can guarantee that every Senator in this body will rue this day ... Senators, do we want to do it this way? If this is done today, it can be done any day. If it can be done on this constitutional question, it can be done on any other constitutional question. It can be done on any other point of order the Chair wishes to refer to the Senate for decision. ... I believe that there is a danger here that, if Senators will reflect upon it for but a little while, they can foresee a time when we would say that we went the wrong way to achieve an otherwise very notable purpose ... Put this power in the hands of a tyrannical leadership, and a tyrannical majority of 51 Senators, and we are going to be sorry on both sides of the aisle. (121 Congressional Record 3842–3844)

So in 1975, the Senate did what it has always done when confronted with the question of simple majority cloture on debate of a motion to amend the rules. It rejected it.

The reason that the constitutional approach to rules changes has never been implemented is that every time it has been attempted, the Senate has not gone along.

When Vice President Humphrey explicitly ruled that the Senate could end debate by a simple majority, the Senate voted to overturn that ruling. In those instances when a Vice President has advised that tabling a point of order against a motion to limit debate on a rules change by a simple majority amounted to Senate approval of that motion, the Senate has either voted to reject that interpretation outright or voted against tabling the point of order.

The very basis for minority rights in the Senate is the absence of simple majority cloture, which would allow a majority of Senators to end debate. The absence of simple majority cloture is the only ground on which a minority, and sometimes a single Senator, can stand to demand they be heard on any given issue.

I believe by the letter and spirit of our rules, and the history and practice of this body, the bipartisan leadership proposal before us merits support. But I also recognize that these arguments alone may not suffice for the millions of Americans who understandably do not know or care much about the procedures and rules of the Senate, and who have watched for the last 4 years with mounting frustration as abuse of those rules has obstructed progress and mired the Senate in seemingly endless delay.

The foundation of Democratic governance is rule by majority consent. Indeed, democracy arose as a response to centuries of rule by a privileged and self-interested minority imposing its will on the majority. And the need for a system that protects minority rights is counter-intuitive to many Americans, who find it hard to understand why the majority's will does not always carry the day in the Senate.

But while the foundation of our Democratic system is rule by the will of the people, our Founding Fathers were careful to enshrine protections against what they warned was a dangerous threat to true political liberty. They called it ''majority faction,'' the possibility that a majority of the public would, in pursuit of its own interests, infringe upon the rights of their fellow citizens.

They crafted our system with a series of checks and balances to protect against the dangers of majority faction. And since the founding, many of the most important steps forward for our country have involved protecting minorities from the harms of majority faction.

The giants of the Senate have recognized the vital importance of protecting minority rights. Senator Daniel Inouye was rightly eulogized recently in this chamber as a wise and experienced presence in the Senate. He demonstrated that wisdom from the very beginning of his career here. In

his maiden speech on this floor, he implored the Senate to preserve its protections for minority views, even when those protections allowed a misguided minority to obstruct our Nation's progress. This is what he said:

> The philosophy of the Constitution and the Bill of Rights is not simply to grant the majority the power to rule, but is also to set out limitation after limitation upon that power. Freedom of speech, freedom of the press, freedom of religion: What are these but the recognition that at times when the majority of men would willingly destroy him, a dissenting man may have no friend but the law? This power given to the minority is the most sophisticated and the most vital power bestowed by our Constitution.

Understand what was taking place here. Senator Inouye spoke as the Senate was debating whether to weaken the rights of the Senate minority, so that the Senate majority could end grave injustice by enacting civil rights legislation. Senator Inouye, a man who had himself felt the pain of racial discrimination, even during and after his remarkable service to this nation during World War II, used his first speech on this floor to warn against the attempts ''to destroy the power of the minority . . . in the name of another minority.''

I want to make clear to my colleagues my belief that defense of the minority's rights in the Senate is not defense of the current use, and abuse, of those rights. It is not a defense of a few who threaten routinely to prevent consideration of judicial nominees unanimously approved in committee, or to prevent debate on legislation. We need to act so that the Senate can function again.

But we can't save the Senate by destroying its very nature and role. In the past, Senators strongly committed to reforming the Senate rules have been equally committed to preserving its institutional strengths. Listen to the words of Senator Mansfield, who, in 1967, worked to reform the cloture rule so the Senate would function more normally—but, importantly, urged his colleagues not to pursue those reforms by the destructive means of establishing simple majority cloture to end debate on a rules change. While arguing strongly for reform, Senator Mansfield said, ''[The] urgency or even wisdom of adopting the three-fifths resolution does not justify a path of destruction to the Senate as an institution and its vital importance to our scheme of government. And this, in my opinion, is what the present motion to invoke cloture by simple majority would do.'' Senator Mansfield added: ''I simply feel the protection of the minority transcends any rule change, however desirable. . . . The issue of limiting debate in this body is one of such monumental importance that it reaches, in my opinion, to the very essence of the Senate as an institution. I believe it compels a decision by more than a majority.''

In 1975, Senator Byrd argued in favor of the rule change reducing the number of votes needed to end debate from 67 to 60. But he strongly opposed using simple-majority cloture of the debate on that rules change. ''I feel that a three-fifths cloture vote would protect the minority, protect the uniqueness of this institution, and preserve a fair and equitable way to close debate. But I am not for destroying the Senate as a unique institution in an effort to reach that end.''

In 2010, in testimony before the Rules Committee on this subject, Senator Byrd said:

> During this 111th Congress, in particular, the minority has threatened to filibuster almost every matter proposed for Senate consideration. I find this tactic contrary to every Senator's duty to act in good faith. I share the profound frustration of my constituents and colleagues as we confront this situation. The challenges before our nation are too grave, too numerous, for the Senate to be rendered impotent to address them, and yet be derided for inaction by those causing the delays. . . . Does the difficulty reside in the construction of our rules, or does it reside in the ease of circumventing them? A true filibuster is a fight, not a threat, not a bluff. . . . Now, unbelievably, just the whisper of opposition brings the 'world's greatest deliberative body' to a grinding halt. . . . Forceful confrontation to a threat to filibuster is undoubtedly the antidote to the malady.

There have without question been times when a self-interested or hidebound minority in the Senate has frustrated American progress. But there have also been times when a Senate majority has attempted to impose its will in ways that would have been harmful. Those instances resonate far less loudly when one is a supporter of a frustrated majority. But those of us who have served in the minority in this body, as I have for nearly half my time in the Senate, remember them well.

In the recent past, Senate Democrats in the minority used the protections afforded the minority to block a series of bills that would have unwisely restricted the reproductive rights of American women. We beat back special-interest efforts to limit Americans' ability to seek justice in our courts when harmed by corporate wrongdoing. We used those protections to seek an extension of unemployment benefits for millions of Americans. We used them to oppose the nomination of nominees to the Federal courts who we thought would do great harm to the law. Progressives distressed that the recent fiscal cliff agreement raised the estate tax exemption to more than $5 million should recall that without the protections afforded the Senate minority, a total repeal of the estate tax would have passed the Senate in 2006. Forty-one Senators prevented that from happening.

Over the history of this body, giants of the Senate have repeatedly warned us against the danger of damaging, even with the best of intentions, the Senate's protections for minority rights and extended debate. Time and again, the Senate has heeded those warnings. While it is necessary to reasonably preserve those minority rights, it also is urgent that we restore the Senate's ability to function. Unless we do that, the Senate's character and function within our system of government will remain threatened by constant gridlock. The bipartisan proposal before us holds the promise of restoring the Senate's deliberative and legislative process, without going down a ''nuclear'' path that might severely damage the Senate in an attempt to save it. This proposal holds the promise of demonstrating to a nation hungering for bipartisan cooperation that we are capable of providing it. I urge my colleagues to embrace a bipartisan approach that will allow us to end the gridlock of which we have seen too much, and to do so with the bipartisan spirit of which our people have seen too little.

Mr. LEVIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I wish to thank Senator LEVIN for his leadership, as well as Senator MCCAIN, Senators SCHUMER, CARDIN, PRYOR, and Senator Kyl—who has now retired from the Senate—and Senator BARRASSO. We are hopeful the leaders will be able to recommend to us a set of changes in our rules and procedures and practices that will help the Senate operate in a fairer and more efficient way. That is what all of us want. It is surprising how many of us want that.

We all worked pretty hard to get here. We all understand we are political accidents. The Senator from Maine, the Senator from Arkansas—we all know that. We are very fortunate to be here. While we are here, we would like to contribute something. That gets down to a couple things. Let's make it easy for a committee bill to come to the floor, and let's make it easier for Senators from the various States and from various points of view to have their say. Allow them to offer their amendment and have it voted up or down and to have a final vote. That is all.

I often use the analogy of the Grand Ole Opry. A person is lucky to be on the Grand Ole Opry. If you are there, you want to sing. Sometimes being in the Senate has been like being in the Grand Ole Opry and not being able to sing. We have all done the finger-pointing. The Democrats—the majority—say: You Republicans are filibustering. You are blocking things and keeping things from happening.

What we are saying is the majority leader has used the gag rule 69 times. Senator Daschle only used it once. What the eight of us found very quickly when we sat down in the first meeting a few weeks ago was that we were of the same mind. We honored this institution and we believe our country has serious problems. We want to get to those problems, and we want to serve our country well in the position we have.

If we are from Michigan, we want to be able to offer the voices of Michigan

on the floor of the Senate. If we are from Nashville or the mountains of Tennessee or Maine, we want to be able to do the same. We want our voices heard—not our voices but the voices of the people whom we represent. That is the importance of the discussion we are having today.

My hope is the majority leader and the Republican leader—and I congratulate them for sort of sticking their necks out in their respective conferences—recommend a way that we can do two things: make it easier for bills to come to the floor and make it easier for Senators to get their amendments in. I believe if that happens, this Senate will see a new day.

On this side of the aisle, we believe we don't need rules changes; that we just need a change in behavior. On the other side of the aisle, there are those who say: Let's get rid of the filibuster. I think once we get back into what we call regular order, all that talk will go away. I think Senator MIKULSKI and Senator SHELBY are going to have 10 or 11 or 12 appropriations bills ready to come to the floor within a few weeks, and I think they are going to want them to be considered by this body. If they do, we will be busy for 8 or 10 weeks and we will have dozens of amendments. I heard the chairman of the Budget Committee say she intended to have a budget and, if she does, we will have dozens of amendments. Then the voices of the people of this country will be heard here on the floor of the U.S. Senate. We will have votes, we will have amendments, and we will be doing our job, and all of this talk we are having right now will be pushed into the background.

There is a reason for a Senate that is different than the House of Representatives. It goes all the way back to the founding of our country. It was noticed by the first observers of our country. Alexis de Tocqueville, in his fascinating view of America in ''Democracy in America'' which he wrote in the early part of the 19th century, said America faced two great challenges. One was Russia. The other one was the tyranny of the majority. This is a democracy. This is a majority rules country. But he saw in a great, big, complex country the danger of the tyranny of the majority. And this institution, the U.S. Senate, has from the beginning of the country protected the minority and protected the unpopular view. If a Senator didn't like the Vietnam war, he or she could stand up and say something here and maybe do something about it. Or if a Senator was on the other side, maybe he or she could do something about it. They could make people slow down and stop and think before the country rushes ahead.

Senators of both parties eloquently, as Senator LEVIN has pointed out, have defended that right. We Republicans in the Bush administration were so upset about the Democrats' blocking of judges that we said we might use the nuclear option, that we might turn this into a majority body. Now there are a number of Democrats who feel the same way here. I hope we put that away and realize that this is the body that stands up for minority views in this country and says, don't run over minorities. Stop and think. Stop and think before you do that. Then we forge a consensus.

To conclude my remarks—because I see the Senator from Arkansas, who has been an outstanding contributor to this effort, as he has been through his time in the Senate—I came to the Senate as a young staff aide in 1967. That was a long time ago. I saw a little bit of how important it is to have a body that gains a consensus when we are talking about a big, difficult issue for the whole country. In 1967, the issue was civil rights. The Senator from Maine knows about those early days in the Senate. The Senator from Michigan does as well. There were a minority of Republicans at that time. Everett Dirksen was the Republican leader. But the civil rights bill of 1968 was written in the Republican leader's office. Why? Because at that time they had to get 67 votes to pass it.

One might say, Well, that shows what is wrong with the Senate, because it slowed things down. But looking back over history, those last 8 or 10 years of civil rights laws, the Voting Rights Act, eventually all of the laws that changed our country and continue to change it, were big steps. And what happened in 1968 once the Senate gained a consensus on civil rights? Senator Russell, who led the opposition to the civil rights bill through his whole career, got on the airplane, went home to Georgia and said, It is the law of the land. Now we obey it.

So the value of having a body in our government that respects the minority and forces a consensus is that once we reach that consensus—once we reach it—we then have a better chance of having the country behind what we do on the very controversial and difficult issues we face.

So if this works out as I hope it does today, I pledge my part to work with the majority, as one Senator, to help make sure bills come to the floor, and to work with Republican Senators in the minority to help make sure they get their amendments. If we do, I think we will do our job better, we will gain more respect, the country will have a stronger government, and the rights of the minority will be protected.

I thank Senator LEVIN for his leadership, as well as Senator PRYOR and the others with whom I have worked.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I wish to thank Senator LEVIN and Senator ALEXANDER for their kind comments about me. The Senator from Tennessee and I came to the U.S. Senate at the same time. That was 10 years ago.

One of the things I think everyone would agree with is we have seen over the last 10 years a waning of effectiveness in the Senate. A large part of that is the fact that this floor is not used as it should be. This floor has been used to block and obstruct. Both parties are guilty of that. This floor should be the marketplace of ideas. It should be where we come together and we work to resolve our differences. Our differences may be partisan, they may be regional, they may be philosophical, they may be generational, whatever, but our Founding Fathers set up our system of government where there would be one place where difficult, complex, thorny, even sometimes politically treacherous issues can be resolved, and that is on the floor of the U.S. Senate.

When we, again Democrats and Republicans, abuse the rules around here and we stymie the Senate from acting, we get gridlock, and gridlock is not good for the country. I firmly believe one of the reasons the American public is so disgusted with Congress right now is because of the things that are happening and not happening on this floor.

When we think about our system of government and when our Founding Fathers set it up, of course we have the three branches, but as a practical matter, the floor, right here, is the only place in our government where the American people—the people we represent—can actually see their law being made. Americans don't see law being made at the White House. They go out there and they huddle up in their conference rooms and they come out to the Rose Garden and they make the announcement. We never see the process. We don't see the process in the U.S. Supreme Court or in the courts of appeals. What happens there is the lawyers and the parties come in and make their cases and then the Justices and judges go back and conference and they talk about it back in their chambers, and they come out with their decision, and that is what we have. We don't always know what the deliberations are. We don't know all the considerations. The same thing in the U.S. House of Representatives, with all due respect to our other Chamber down the hall. Because of the way their rules operate, because of the Rules Committee and the way it is structured and their history and, quite frankly, their DNA, it is a majoritarian body. But not the U.S. Senate. In the Senate we allow Senators to amend and debate and to vote. That has been one of the problems here in the last 10 years. The Senator from Tennessee—and I see the Senator from Texas on the floor—we all came in together. This Senate has lost a lot of ability to do that.

I am firmly convinced we have sufficient verbiage in rule XXII of the Senate Rules to require a talking filibuster. I think that is critically important. It is not a new interpretation, but it is utilizing the existing interpretations, the longstanding history of the Senate, based on parliamentary decisions, based on decades of things that

have happened here on the floor, where we have the authority already in rule XXII. But we have asked our two leaders to clarify and state and notify all of us how we are going to handle issues during this Congress. The way we are going to handle it when it comes to the talking filibuster is we are going to require Senators to be here to object. No more phone-in filibusters. We are going to require Senators to come down and state their objections, to come down and actually speak. If they have a problem with moving forward, they need to come and speak about it. If they want to start a filibuster, they should be here to speak on the floor. What is going to happen is the majority of Senators who want to see legislation get done may have to do a little work and be here late nights, but that is part of it. That is what we signed up for. It is like the Senator from Tennessee said a few moments ago. We all worked very hard to get here, and we came here to work for the country. If we are ever going to have a chance of resolving the big and difficult issues that face our Nation—issues such as our debt and deficit; issues such as the fiscal cliff; a whole set of issues including tax reform, entitlement reform—we can bet our last dollar those things are going to happen in the Senate. That is where things get done.

The fiscal cliff, with all due respect to the House, didn't happen in the House, it happened in the Senate. The minority leader and the Vice President worked it out. That is the way things have always gotten done, for the most part, in American history, and that is the way we need to allow things to get done in this Congress, because we have too many big issues to block everything that is coming through on the Senate floor.

Again, I wish to thank Senator LEVIN and Senator MCCAIN for leading this effort. They are great leaders. I thank Senator Kyl, Senator BARRASSO, Senator ALEXANDER. Participating in those meetings with my Republican colleagues was a great experience, to listen to them, listen to their concerns. I think it was an education for all the Democrats to have that quality time where we did listen and then they listened to us. I think that was very important. We need to do more of that around here. We will get a lot more done if we do.

Also, our Democratic colleagues, of course led by Senator LEVIN, Senator SCHUMER, and Senator CARDIN, everybody contributed, and I think it is something we should be proud of and it is also a great victory for bipartisanship. It is a great victory for bipartisanship. I think that is what the American people are screaming out for: for us to work together to get things done, and this is a good example of that.

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the period of morning business be extended until 7:15 p.m. today, and that all provisions of the previous order remain in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

THANKING OUR COLLEAGUES

Mr. ISAKSON. Mr. President, as I walked to the Capitol, I had not intended to speak. But when I came in and started listening to Senator PRYOR and Senator LEVIN, and I listened earlier today to Senator MCCAIN and now Senator ALEXANDER, it made me want to come to the floor and thank them for the effort they have made to hopefully make us a better working body in the next 2 years than we would have been otherwise preceding this agreement.

When Senator ALEXANDER made the remarks about our predecessor, Richard Russell, and when he came home to Georgia after a rigorous debate, an arduous debate, that took place on civil rights, it made me recognize the appreciation and respect our predecessors had for the result of the debating process.

As I listened to Senator PRYOR, I had a flashback to 2 weeks ago when a number of us attended the movie ''Lincoln.'' It was a screening of the movie downstairs, and Steven Spielberg was there. I thought about those great scenes in the movie ''Lincoln'' where the U.S. Congress debated slavery and whether we were going to abolish it. We came to a decision, we had a vote, we debated it, and the abolition of slavery took place, all because the Congress functioned, all because politicians took the issues to the floor. They challenged one another. They worked hard for what they thought was best for the country. I think tonight when we vote on the changes that will be adopted, we preserve the interests of the minority. We preserve the best heritage of this body. We put ourselves in a state where we will debate on the floor of the Senate and make decisions for the American people, and the result will be a better country and a better product by the U.S. Senate.

So I thank, Senator ALEXANDER, Senator PRYOR, Senator MCCAIN, wherever you might be, and Senator CARL LEVIN, for a job well done.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. MERKLEY. Madam President, I rise to share a few comments on the votes that we are about to take. In particular, I am struck by the enormous amount of conversation over the last few days over how we make this body, our beloved Senate, work more effectively in addressing the big issues facing America.

I think all of us have had the experience of our constituents back home recognizing that the last 2 years, and many years before, were ones that we had a particular growing element of paralysis that we had a responsibility to address. Tonight the Senate is going to be speaking in a bipartisan fashion and saying this cannot continue in the same way; that we need to take steps toward having a more functional Senate.

I don't think it will come as a surprise to anyone in this Chamber that I had hoped we would go a little further in addressing the silent filibuster that has been haunting us in these Halls. But here is the important thing. The important thing is that this Chamber is speaking tonight in a bipartisan voice, in a strong voice, saying we must take steps for this deliberation to work better. I think that message reverberates with the American people who are looking at the many challenges we face as a nation and who have been watching through the courtesy of C–SPAN and seeing that often, when they want us to be addressing these challenges, we are here in quorum calls.

A substantial amount of that can change, both with the modest steps we are taking tonight and, hopefully, in the collaboration between the two parties in the spirit of having a functioning legislature.

I want to thank a number of groups who have worked very hard to bring to us the importance of making change: the Communications Workers of America, the Sierra Club, the Alliance for Justice, the entire Fix the Senate Coalition, Daily Coast, Credo, the Progressive Campaign Committee, and the nearly half million Americans who have signed petitions to say: Please, Dear Senators, work hard on this. It matters. I think their voices were heard.

So I extend my appreciation to the leadership on both sides who have been working so hard to figure out these steps forward, to try to have a series of tools on the motion to proceed, to figure out how we can get more effectively to conference committee with the House, how we can cut down on the number of hours that are often wasted after a cloture vote on a nomination. So there is significant progress in a number of areas.

I certainly pledge to my majority leader and to my colleagues on both sides of the aisle to remain engaged in this conversation about the functioning of the Senate. I appreciate the work they have done. I appreciate the steps we are taking tonight. I also appreciate the spirit in which many folks are saying: Let's make these things work. We hope they work. And if they don't get us there, let's return to this conversation because we do have that